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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/757,102 | 01/08/2001 | Phillip Lee Bogle | 3382-57030 | 6918 |

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| EXAMINER | |
|---|---|
| CHAVIS, JOHN Q | |
| **ART UNIT** | **PAPER NUMBER** |
| 2193 | |

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/757,102 | BOGLE ET AL. | |
| | Examiner | Art Unit | |
| | John Chavis | 2124 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *08 October 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *18-49* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *18-49* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 18-50 are rejected under the judicially created doctrine of double patenting over claims 1-19 of U. S. Patent No. 6,353,923 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: See the discussion below.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

The only difference in the claims is considered the terminology used. The overall functionality is considered the same for each set of claims. For example, see a comparision of claim 18 of the present application below with the teachings of claim 1 of '923.

| Present application | '923 |
|---|---|
| 18. (previously presented) In a computing environment a method of facilitating the debugging of mixed-language script that interacts with features of a host through a programming interface, the method comprising; | See the first 10 lines of claim 1, which indicates that a first and a second language (mixed languages) is used<br><br>lines 13-16 indicates the host feature and therefore inherently the interface, with the debug interface providing the functionality of the debug interface. |
| providing a debugging environment for debugging mixed-language script, the mixed-language script interfacing with features of a host through a programming interface exposed by the host the mixed-language script including a first script portion written in a first language and second script portion written in a second language; | See lines 11-12 of claim 1. |
| recognizing a debuggable entity created from the mixed-language script and context information; | See lines 17-20 of claim 1. |
| based upon debug activities for the debuggable entity, involving in interaction between the mixed-language script and the features of the host wherein the debugging environment coordinates implementation of a first debug activity according to the first language and wherein the debugging environment coordinates implementation of a second debug activity according to the | See again lines 17-20. |

second language.

| | |
|---|---|
| 19. (previously presented) A computer readable medium storing instructions for causing a computer programmed thereby to perform the method of claim 18. | See claim 15 of '923. |
| 20. (previously presented) The method of claim 18 where the debug activities include evaluating an expression. | This feature is considered inherent in debugging in order to determine if an error exists, and where the error exists, see claim 1 lines 21-23. |
| 21. (previously presented) The method of claim 18 wherein the debug activities include retrieving stack frame information. | " " " " " |
| 22. (previously presented) The method of claim l8.whemin the debug activities include browsing a structured object. | The scripts in claim 7 are considered structured objects. |
| 23. (previously presented) The method of claim 18 wherein the debug activities include setting a breakpoint in the mixed language script. | Dynamically altering the script in claim 5 is considered equivalent to setting a breakpoint. |

In reference to claim 24, see the rejection of claim 1 above.

As per claim 25, 35, see also the rejection of claim 1 (plural script fragments with Coordinations provided between implies language independent descriptions are used). The HTML files are considered language independent or language neutral, see claim 7; while, applets are language dependent "requiring an interpreter for each", see again claim 7).

Claims 26-27, 31, 33, 37, and 48 are rejected as claim 18 above.

The features of claims 28 and 50 are taught via claim 19.

In reference to claim 29, 33-36, 38, 46-47, see the rejection of claim 25 above.

As per claims 39, see also the rejection of claims 18.

Claims 40 are rejected as claim 20 above.

The features of claims 41-43 are taught via claims 21-23.

In reference to claim 44-45, see the rejection of claim 22 above.

As per claim 49, see the rejection of claim 21.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 18-50 are rejected under 35 U.S.C. 102(e) as being anticipated by House et al. (5,940,593).

| Claims | House et al. |
|---|---|
| 18. (previously presented) In a computing environment a method of | See the title and the abstract of the invention. Note in lines 9-13 of col. |

| | |
|---|---|
| facilitating the debugging of mixed-language script that interacts with features of a host through a programming interface, the method comprising; | 2 that HTML is one of the languages used, which inherently has mixed language scripts (html, javascript, etc.) See also col. 3 line 57-col. 4 line 6. |
| providing a debugging environment for debugging mixed-language script, the mixed-language script interfacing with features of a host through a programming interface exposed by the host the mixed-language script including a first script portion written in a first language and second script portion written in a second language; | See col. 5 line 53-col. 6 line 6. |
| recognizing a debuggable entity created from the mixed-language script and context information; | See col. 6 lines 35-49. |
| based upon debug activities for the debuggable entity, involving in interaction between the mixed-language script and the features of the host wherein the debugging environment coordinates implementation of a first debug activity according to the first language and wherein the debugging environment coordinates implementation of a second debug activity according to the second language. | See col. 6 lines 15-21. |
| 19. (previously presented) A computer readable medium storing instructions for causing a computer programmed thereby to perform the method of claim 18. | See claims 7 of '593. |
| 20. (previously presented) The method of claim 18, wherein the debug activities include evaluating an expression. | See the rejection of claim 20 above. |

| | |
|---|---|
| 21. (previously presented) The method of claim 18 wherein the debug activities include retrieving stack frame information. | " " " " " |
| 22. (previously presented) The method of claim 18, wherein the debug activities include browsing a structured object. | Scripts are considered structured objects, see col. 4 line 66-col. 5 line 16. |
| 23. (previously presented) The method of claim 18, wherein the debug activities include setting a breakpoint in the mixed language script. | See col. 6 lines 3-6. |

In reference to claim 24, see the rejection of claim 1 above.

As per claim 25, 35, see also the rejection of claim 1 (mixed languages with Coordinations provided between implies language independent descriptions are used). The HTML files are considered language independent; while, applets are language dependent "requiring an interpreter for each").

Claims 26-27, 31, 33, 37, and 48 are rejected as claim 18 above.

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Claims 40 are rejected as claim 20 above.

The features of claims 41-43 are taught via claims 21-23.

In reference to claim 44-45, see the rejection of claim 22 above.

As per claim 49, see the rejection of claim 21.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Chavis whose telephone number is (703) 571-3720. The examiner can normally be reached on M-Tue & Th-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (703) 571-3719. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John Chavis
Primary Examiner AU-2124